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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Access Charge Reform)

Price Cap Performance Review
for Local Exchange Carriers)

Transport Rate Structure)

CC Docket No. 96-262

CC Docket No. 94-1

CC Docket No. 91-213

**Comments of the
 Telecommunications Resellers Association
on Petition for Reconsideration**

The Telecommunications Resellers Association ("TRA"),¹ through undersigned counsel and pursuant to Section 1.429(f) of the Commissions Rules, 47 C.F.R. § 1.429(f), hereby submits its comments in opposition to the Petition for Reconsideration filed by Teleport Communications Group, Inc. ("Teleport") in this matter on November 10, 1997. TRA strongly disagrees with Teleport's assertion that the Federal Communications Commission (the "Commission") was incorrect in its decision to modify the methodology pursuant to which

¹ A national trade association, TRA represents more than 650 entities engaged in, or providing products and services in support of, telecommunications resale. TRA was created, and carries a continuing mandate, to foster and promote telecommunications resale, to support the telecommunications resale industry and to protect and further the interests of entities engaged in the resale of telecommunications services. The overwhelming majority of TRA's resale carrier members provide interstate, interexchange services and hence, pay access charges (either directly or indirectly through their underlying interexchange network service providers) to originate and terminate traffic.

primary interexchange carrier charges ("PICCs") will be assessed on presubscribed interexchange carriers serving customers using Centrex service. For the reasons set forth more fully below, TRA urges the Commission to reject Teleport's request that the Commission reverse its adoption in the *Second Order on Reconsideration*, CC Docket No. 96-262, FCC 97-368, (released October 9, 1997) ("*Order on Reconsideration*") of a 9:1 line-to-trunk equivalency ratio for purposes of calculating Centrex PICCs.

An active participant in this proceeding, TRA credits the Commission for its significant efforts to render the historic access charge regime compatible with the new competitive paradigm established by the Telecommunications Act of 1996 ("Telecommunications Act").² And neither TRA, nor to TRA's knowledge any other entity, disagrees with Teleport that, in the best of all possible worlds, all entities should be treated identically, with no single service or service provider receiving either inordinate benefit or burden from the manner in which the costs of interstate access are recovered. Indeed, the Commission has clearly indicated its commitment to the achievement of these goals, evidenced in this instance by its efforts to restructure the access charge regime in a manner designed to "ensure that costs are recovered in the same way that they are incurred."³ The Commission reasoned, and TRA agrees, that an access charge rate structure which rests firmly upon principles of cost causation would in turn would encourage investment and efficient competition.⁴

² Pub. L. No. 104-104, 110 Stat. 56 (1996).

³ *Access Charge Reform ("First Report and Order")*, CC Docket No. 96-262, FCC 97-158, ¶ 36 (1997), *recon.* 12 FCC Rcd. 10119 (1997), *pet. for rev. pending sub nom. Southwestern Bell Telephone Company v. FCC*, Case No. 97-2620 (and consol. cases) (8th Cir. June 16, 1997).

⁴ *Id.* at ¶ 35.

The *Order on Reconsideration's* establishment of a 9:1 Centrex line-to-trunk equivalency ratio is fully consistent with the above rationale. The Commission was correct, and well within its discretion, to modify the methodology for determining Centrex PICCs in this manner, having first thoughtfully considered the information presented to it by petitioners in this proceeding. In adopting this modification, the Commission has taken a significant -- and essential -- step toward eliminating the disproportionately heavy financial burden which Centrex users would bear if PICCs were imposed on every Centrex line. Teleport's protestations to the contrary notwithstanding, the calculation of Centrex PICCs based upon a 9:1 line-to-trunk equivalency ratio represents a vast improvement over a per-Centrex line PICC which is neither supported by principles of cost-causation nor capable of nondiscriminatory application.

The Commission should not be moved by Teleport's unsupported claim that by simply reducing the PICC burden on Centrex users to levels roughly corresponding to the burden imposed upon similarly-situated PBX users, the Commission has afforded Centrex users an inappropriate and impermissible preference. Quite the opposite is the case, and Teleport's "equality in the assessment" mantra does not alter that conclusion. Additionally, TRA notes that no matter how ardently Teleport, or the Commission itself, desires absolute equity in treatment for all classes of services, the theoretical vacuum which might produce such a "perfect" solution is far removed from the day-to-day competitive realities facing the Commission as it fulfills its statutory and regulatory obligations. As the *Order on Reconsideration* illustrates, however, the Commission remains ever cognizant of the day-to-day consequences its decisions will engender, and ever willing to modify those decisions when necessary to reach an equitable result.

Contrary to Teleport's assertions that the *Order on Reconsideration* "extends favored treatment to Centrex customers,"⁵ the Commission has done nothing more than prevent the imposition of a disproportionately heavy PICC obligation on a singular class of telecommunications user. Any other result would have been clearly inconsistent with the Commission's objective that its rules "should promote competition, not protect certain competitors", and the essential corollary to that principle, that those rules should not hinder competition or unduly burden any category of service. A per-Centrex line funding scheme for the recovery of incumbent LEC common line charges not otherwise recovered through subscriber line charges ("SLCs") and other common line charges, the underlying purpose of PICCs to begin with, bears little relation to cost-causation principles and thus has little to commend it. TRA supports the Commission's adoption of a line-to-trunk equivalency ratio as one means to rationalize the PICC assessments imposed upon the customers of Centrex service because this modification ensures that users of Centrex and PBX services will be treated in a functionally equivalent fashion with respect to the financial impact of PICCs. Inasmuch as the Commission has concluded that "the two arrangements are functionally equivalent",⁶ this result is compelled by the most basic principles of equity.

Finally, given the wide diversity in line-to-trunk equivalency ratios where such equivalencies have been established in particular states, TRA concurs with the Commission that the adoption of a national standard for trunk equivalency is both reasonable and appropriate, and that "[a]doption of a single ratio would simplify the assessment of PICCs on Centrex lines by

⁵ Teleport Petition for Reconsideration at 2.

⁶ *Order on Reconsideration*, FCC 97-368 at ¶ 31.

eliminating the use of multiple ratios from multiple tables or state tariffs."⁷ The Commission had before it varying estimates of line-to-trunk equivalency, some approaching 18:1; thus, the benefit Teleport perceives the Commission to have afforded customers of Centrex service could conceivably have resulted in a line-to-trunk equivalency ratio of significantly higher than 9:1. To the extent the Commission has reason to adjust the line-to-trunk equivalency ratio closer to 18:1 in the future, that action as well would be squarely within the Commission's discretion.

Rectifying the manner in which PICCs are imposed on Centrex service represents a necessary and worthwhile modification to the Commission's access charge reform package which should be in no way diminished. In TRA's view, however, the Commission's access charge regime is not yet fully consistent with the guiding principle of competitive neutrality, the bedrock upon which virtually all aspects of the Telecommunications Act are founded. Notwithstanding its relief of Centrex customers from inappropriately and artificially elevated PICC obligations, the Commission has only partially resolved competitive disparities resulting from the blatant subsidies generated by the revamped access charge regime. TRA urges the Commission to continue exploring and resolving those aspects of the access charge rate structure, and in particular the PICC implementation scheme, which are not yet fully compatible with the competitive neutrality required if the deregulated, pro-competitive national telecommunications market which the Telecommunications Act as a whole seeks to foster is to become a reality.

A primary example of a blatant, market distorting subsidy, wholly inconsistent with the cost-causation principles so highly regarded by both the Congress and the FCC, is the establishment of the multi-line business PICC at a level five times the primary and single-business line PICC. At its current level -- which exceeds the primary residential and single-line

⁷ *Id.* at ¶ 38.

business PICC by more than 400% despite the virtually identical nontraffic sensitive costs associated with the lines themselves -- the multi-line business PICC places undue economic and competitive burdens upon small to mid-sized interexchange carriers which oftentimes cannot recover these costs from their presubscribed customers.

TRA has asked the Commission, in a Petition for Reconsideration pending before the Commission in this proceeding, to reduce the multi-line business PICC to the level at which the Commission has set the primary residential and single-line business PICC. Reduction in the multi-line business PICC from its current level of more than five times the primary and single-line business PICC, like the Commission's effective reduction of Centrex line PICCs through the *Order on Reconsideration*, would foster the development of the truly competitive national telecommunications environment envisioned by Congress, and would do so in a manner more closely guided by principles of cost-causation.

As TRA illustrated in its Petition for Reconsideration, certain elements of the Commission's access charge reform package will have the unintended, unfortunate and currently unavoidable result of not only diminishing the number of small and mid-sized competitors in the interexchange market, but of limiting the available service options for their predominantly small business customers. As TRA pointed out, imposition of the \$2.75 (and ultimately higher) multi-line business PICC will place small IXCs such as the rank-and-file of TRA's resale carrier membership between a "rock and a hard place." The low volume small business customers of small interexchange carriers will not be able to tolerate the dramatic rate increase a pass-through

of the multi-line business PICC will produce.⁸ Further, small carriers have neither the traffic volumes over which to spread the new charges without significantly increasing rates nor the operating margins within which to absorb those charges. Indeed, imposition of the \$2.75 multi-line PICC will likely double the effective cost of access for small carriers interexchange carriers.

The Commission has not yet reached a final conclusion on TRA's Petition for Reconsideration. TRA remains hopeful, however, that the Commission will address the matters raised in its Petition for Reconsideration by eliminating the openly acknowledged subsidy implicit in the multi-line business PICC, rendering the multi-line PICC more consistent with cost-causation principles and thus, more equitable in its application to all entities subject to PICC assessments. Until such time as the Commission is in a position to eliminate all remaining elements of its access charge rate structure which are not closely correlated to principles of cost causation -- and thus, not competitively neutral -- TRA strongly urges the Commission to refrain from taking any action which would constitute regression from this goal. Toward that end, the Commission should, at a minimum, maintain the full force of the *Order on Reconsideration's* treatment of PICCs on Centrex lines pursuant to the 9:1 line-to-trunk equivalency ratio.

CONCLUSION

TRA wholeheartedly supports the Commission's continuing effort to "promote competition, not protect certain competitors" within the confines of a less-than-perfect theoretical

⁸ This situation will only be exacerbated by the difficulties numerous incumbent LECs profess to be experiencing in identifying and providing to interexchange carriers information concerning the type and number of PICCs being imposed upon them, often suggesting a lag time of 60 to 90 days or more before such information can be provided to carriers. If small interexchange carriers cannot pass through to low volume small business customers even the amount of a single PICC assessment, it is virtually unthinkable that such carriers can pass through to end users the equivalent of two to three months' worth of PICC assessments without severe damage to the customer relationship or more likely, loss of the customer.

construct, and applauds the *Order on Reconsideration*'s reduction of PICCs on Centrex lines based upon a 9:1 line-to-trunk equivalency ratio as a demonstration of its real-world commitment to adhere whenever possible to cost-causation principles. Accordingly, the Telecommunications Resellers Association urges the Commission to reject the Petition for Reconsideration of Teleport and to retain in its current form the 9:1 line-to-trunk equivalency ratio for imposition of PICCs on Centrex lines, with the ultimate goal that PICCs should be reduced to an economically realistic level for all lines, including the lines of multi-line business users.

Respectfully submitted,

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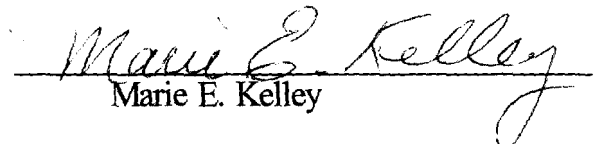
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CERTIFICATE OF SERVICE

I, Marie E. Kelley, hereby certify that a copy of the foregoing Comments of the Telecommunications Resellers Association on Petition for Reconsideration was served this 5th day of February, 1998, by United States First Class mail, postage prepaid, on the following:

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